

UNITED STATES DISTRICT COURT

for the

Western District of North Carolina

United States of America

v.

Kenneth Herman Bennett

Date of Original Judgment: 02/04/2015

Date of Previous Amended Judgment: _____

(Use Date of Last Amended Judgment if Any)

Case No: 5:13-cr-41-KDB-DCK-1USM No: 28211-058

Defendant's Attorney

**ORDER REGARDING MOTION FOR SENTENCE REDUCTION
PURSUANT TO 18 U.S.C. § 3582(c)(2)**

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG §1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

IT IS ORDERED that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of _____ months **is reduced to** _____.

(See Page 2 for additional parts. Complete Parts I and II of Page 2 when motion is granted)

Except as otherwise provided, all provisions of the judgment dated 02/04/2015 shall remain in effect.**IT IS SO ORDERED.**

Signed: February 21, 2024



Kenneth D. Bell
United States District Judge

Judge's signature

Effective Date: _____

(if different from order date)

Kenneth D. Bell

Printed name and title

This page contains information that should not be filed in court unless under seal.
(Not for Public Disclosure)

DEFENDANT: Kenneth Herman BennettCASE NUMBER: 5:13-cr-41-KDB-DCK-1DISTRICT: Western District of North Carolina**I. COURT DETERMINATION OF GUIDELINE RANGE (*Prior to Any Departures*)**Previous Total Offense Level: 37Amended Total Offense Level: 37Criminal History Category: IIICriminal History Category: IIPrevious Guideline Range: 232 to 327 monthsAmended Guideline Range: 235 to 293 months**II. SENTENCE RELATIVE TO THE AMENDED GUIDELINE RANGE**

- ☐ The reduced sentence is within the amended guideline range.
- ☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a substantial assistance departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
- ☐ The reduced sentence is above the amended guideline range.

III. FACTORS CONSIDERED UNDER USSG § 1B1.10 AND 18 U.S.C. § 3553(a) (*See Chavez-Meza v. United States, 138 S.Ct. 1959 (2018)*)

The amendment to U.S.S.G. §4A1.1 in Amendment 821 does apply to the Defendant as he had “status points” as his offense was committed while he was under a criminal sentence. (Doc. No. 30, ¶ 46). With the removal of the 2 status points (because the Defendant had 6 or fewer criminal history points), criminal history points of 3 equals a criminal history category of II. With an Offense Level of 37 and a criminal history category II, the sentencing guideline range becomes 235-293 months imprisonment. Defendant was sentenced to 180 months imprisonment. (Doc. No. 35). Due to the limitation provided in U.S.S.G. §1B1.10(b)(2)(A), the Court cannot impose a sentence below the already imposed sentence. Amendment 821 provides no relief to Defendant. There is no need to appoint counsel in this matter.